HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 21154 of 2007

Dated: 06-10-2007

Between:

Gutha Vasu Babu and another

..... PETITIC

AND

The District Collector,
Prakasam District,
Ongole and 6 others.

.....RESPONI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 21154 of 2007

O R D E R:

This writ petition is filed for a writ of Mandamus to set aside the proceedings dated 18-08-2007 issued by respondent No.1 and the consequential proceedings dated 24-08-2007 issued by respondent No.4

The facts, which are not in dispute, are that the petitioners purchased certain lands, which were used for Aqua culture in Sy.Nos.297, 298/2, 292/5, 300/3, 301/2, 302/2 of Karedu Village, Ulavapadu Mandal, Prakasam District through registered sale deeds dated 29-11-2006 and 30-11-2006. On 18-08-2007 respondent No.1-District Collector addressed a letter to respondent No.4-the Tahsildar, Ulavapadu Mandal to the effect that the Assistant Director of Fisheries, Ongole reported that respondent No.5 represented that Mango and Sapota gardens and other Horticulture crops are badly affected by unauthorized Aqua culture taken up in the aforementioned Survey numbers by Aqua farmers. The Collector directed the Tahsildar in the said letter to issue a show cause notice to the Aqua farmers and take effective steps to stop the Aqua culture. In compliance of the said direction, respondent No.4 issued a notice dated 24-08-2007 to the petitioners, who in response to the same submitted a representation on 31-08-2007. In addition to the said representation, the petitioners also made a representation to respondent No.1 wherein, *inter alia,* they have stated that though they have been seeking an opportunity of being heard on many occasions from respondent No.1 and respondent No.2, they are not affording them that opportunity and instead they are contemplating to take action in pursuance of the aforementioned proceedings of respondent No.1 and the show cause notice issued by respondent No.4. Apprehending that respondent Nos.1 to 4 may take action against the petitioners by destroying the bunds of Aqua culture, the petitioners filed the present writ petition.

Heard Sri T.Rajendra Prasad, learned counsel for the petitioners, the learned Assistant Government Pleader for Revenue and Sri M.Subba Reddy for caveators-respondents 5 to 7.

The learned counsel for the petitioners drew my attention to the representation dated 22-09-2007 filed by the petitioners before respondent No.1 and submitted that despite repeated requests being made by the petitioners for affording an opportunity to explain their case, neither respondent No.1 nor respondent No.4 is giving them such opportunity. Learned counsel says that petitioners have invested huge amounts and if any action is taken to destroy the bunds without giving them proper opportunity, they would be put to irreparable loss.

The learned Assistant Government Pleader and Sri M.Subba Reddy say that if a fair opportunity is given to the petitioners by respondent No.1 before taking action according to law, they have no objection.

Having regard to the above, the writ petition is disposed of, without going into the merits, with a direction to respondent No.1 to give an opportunity of personal hearing to the petitioners by issuing a notice and fixing a specific date for the purpose of hearing the petitioners and the objections before taking appropriate action in accordance with law. It is made clear that till final decision is taken by respondent No.1, the existing bunds of Aqua culture belonging to the petitioners shall not be removed/destroyed. Respondents shall complete the exercise within a period of four weeks from the date of receipt of a copy of this order.

Subject to the above, the writ petition is disposed of. No costs.

C.V.NAGARJUNA REDDY,J

Date: 06-10-2007
KLP